

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

May 26, 2004
7:00 p.m.

Bellevue City Hall
City Council Conference Room

COMMISSIONERS PRESENT: Chair Schiring, Vice-Chair Lynde, Commissioners Bach, Bonincontri, Maggi, Mathews,

COMMISSIONERS ABSENT: Commissioner Robertson

STAFF PRESENT: Kathleen Burgess, Mary Kate Berens, Emil King, Nicholas Matz, Steve Cohn, Heidi Bedwell, Michael Paine,
Department of Planning and Community Development

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:04 p.m. by Chair Schiring who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Robertson who was excused.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS – None

5. PUBLIC COMMENT

Ms. Sarah Chandler, 2914 130th Avenue NE, said she served as a member of the Critical Areas CAC and was a member of the Planning Commission when the first critical areas policies were developed. She voiced concern over abandoning the two-zone system developed and recommended by the CAC for protecting streams and wetlands. Expanding the protection area would be a good move, but there is a broader vision that takes in the entire riparian corridor. If people better understood the functions and values of critical areas, more would be willing to do the right thing. There is no need to abandon the recommendation of the CAC in favor of a single-zone system.

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCIL, BOARDS AND COMMISSIONS

Councilmember Chelminiak spoke on behalf of the city and recognized the tremendous contribution of Chair Schiring over the past eight years serving on the Planning Commission.

He said one of Bellevue's greatest strengths is the willingness of the citizens to volunteer and get involved. He thanked Chair Schiring for his leadership and wished him well in the future.

7. STUDY SESSION

A. 2004 Update to the Comprehensive Plan

Kathleen Burgess, Planning Manager, noted for the record that the open house held previous to the meeting was fairly well attended. No written comments were handed in at the event, though some may be mailed in ahead of the July 7 public hearing.

B. 2004 Update to the Comprehensive Plan – Environmental Element

Mary Kate Berens, Legal Planner, provided the Commissioners with responses to issues raised during the study session on May 5. With regard to listing in priority order the beneficial uses of open surface water under the goal statement in the Water Resources section on page 13 of the draft, Ms. Berens noted that the language of the existing Comprehensive Plan includes the priority order. The question put to the Commission was whether or not the CAC-proposed language as drafted should be revised.

Commissioner Lynde said the CAC spent a lot of time working on the priority language as proposed. She said she would be reluctant to change it.

There was consensus not to make any changes to the section.

Ms. Berens said there was quite a lot of public comment at the May 5 meeting regarding water quality and impacts on the environment that happen as a result of things other than development on private property. She allowed that while the focus of the discussions at the Planning Commission level tends to fall on the policies that need to be implemented through development regulations, there are a number of policies that recognize the importance of non-regulatory actions as well, including actions the city takes to educate the residents regarding the environment. Staff does not see a compelling reason to include additional policies related to the issue.

There was consensus that no additional policy language was needed to address non-regulatory actions.

Ms. Berens noted that several comments made on May 5 pointed out that the various lake and shoreline environments in Bellevue are not necessarily the same and should not all be covered by the same blanket. She indicated that additional discussion language had been added particularly emphasizing water quality in the context of all the lakes in Bellevue as a response. She said the two additional paragraphs talk about the kinds of human actions that affect lakes and water quality.

Answering a question asked by Commissioner Lynde, Ms. Berens said CAC-recommended policies numbered 3 and 4 immediately following existing policy EN-11 on page 23 of the packet both focus on storm water drainage.

Chair Schiring commented that several other comments on May 5 mentioned drainage from I-90 that flows directly into Lake Sammamish. Ms. Berens allowed that over time there have been changes to the requirements associated with storm water treatment and retention. At the time I-

90 was constructed it met all of the applicable code requirements; the same is true for a number of other facilities. I-90 falls outside the jurisdiction of the city. The city could chose to take action with regard to retrofitting its own systems to address concerns, but no retrofitting of private developments can be required unless triggered by development proposals.

Commissioner Maggi asked if staff gave any consideration to including in the text language pointing out the differences between Lake Sammamish and Lake Washington. Ms. Berens said the issue was discussed by staff but no proposal was developed to add lake-specific policies. The discussion section acknowledges that there are differences across all of the various types of resources in the city. Policies, however, are not generally written to that level of detail.

Turning to the issue of the two-zone concept recommended by the CAC, Ms. Berens commented that the current system involves only a single buffer zone involving the critical area and an immediately adjacent buffer area that varies in width according to the resource. The recommendation of the CAC was to have a two-zone system involving a Protection Zone, which would function similar to the current buffer system in restricting uses and development, and a Conservation Zone in which all of the uses of the underlying zone could happen but be subject to regulations that would not also be applicable to the rest of the city. The Commissioners were shown an aerial photo of a stream running through the city on which were penned the buffers that would result from the two-zone system.

Ms. Berens said the two-zone concept was a key feature discussed with the CAC. It flowed from discussions of the tri-county approach to addressing the Endangered Species Act listing of certain fish. In rural areas, the two-zone concept presents a flexible approach to protecting critical areas, allowing for buffer adjustments on a site-by-site basis. Application in developed urban areas, however, is problematic. Practically speaking, much of the city is already developed, and was even before the original buffer system was created in 1987. Expanding the existing Protection Zone would make more properties nonconforming. Development everywhere in the city has a potential for impacting critical areas in that all areas are within one watershed or another. Under the CAC approach, the underlying uses allowed in the zone would continue to be allowed in the Conservation Zone, though there may be some stricter limitations on impervious surfaces, and additional restrictions on the removal of vegetation.

In starting the process of drafting the regulations to implement the two-zone approach, staff found that the requirement to retain and enhance native vegetation would focus primarily on the areas closest to the resource where the benefits are greatest. The outcome would therefore be retention of vegetation in the areas already regulated under the current regime. If the most preferred outcome of the two-zone approach were achieved in every instance, the result would look very much like the currently required Protection Zone, only wider.

Ms. Berens said the CAC included a call for regulating impervious surfaces citywide. There are no current limits on the amount of impervious surfaces; the regulations are specific to lot coverage but not to the amount of pavement there can be on any given property. The recommendation of the CAC was to institute a new impervious surface standard applicable citywide that would include a zero percent effective standard within the Conservation Zone.

The two zone approach conflicts with certain other city policies, including the Development Services Initiative which is aimed at improving the permitting process and making sure it is predictable, efficient and consistent. The two zone approach, however, does not allow for predictability because of the built-in flexibility regarding retention of vegetation and placement of structures, and the impervious surface requirements that could trigger the need for some specialized engineering to handle storm water.

Even if the Conservation Zone concept is eliminated, staff recommends moving ahead with implementing an impervious surface standard citywide, though not at zero percent as envisioned for the Conservation Zone. The flexibility called for in the Conservation Zone is addressed through the proposed biological evaluation process which would allow for varying from the prescriptive regulations if the same or a better outcome can be shown to be achievable through an alternative approach.

Ms. Berens allowed that the city of Portland, Oregon, has a two-zone concept in their regulations. It was implemented to address the Oregon equivalent of the Growth Management Act which mandates a more intense process in protecting critical areas. One of the state requirements in Oregon is for all jurisdictions to conduct a critical areas inventory. Portland produced a detailed study of all critical areas within their boundaries, including their functions and values and how and to what degree they might be degraded. Different Protection Zones were established on an individual watershed basis depending on the quality of the existing habitat. As a result, the Protection Zone and Conservation Zone widths vary widely throughout the city, in part tied to the type of zoning adjacent to the critical areas.

Commissioner Lynde asked how well known the existing conditions are for critical areas in Bellevue. Ms. Berens said they are fairly well understood for certain streams, especially the major ones. For streams of less significance and for wetlands there is far less information, and in some cases very little information.

Commissioner Lynde said one possibility might be to focus on merging the one-zone and two-zone concepts into a hybrid approach with a Protection Zone larger than the current required buffer. Anyone wanting to develop a property without questioning the established buffer width would be allowed to do so. However, anyone requesting to encroach on the buffer would trigger a two-zone approach with a different set of requirements, similar to the biological evaluation approach. Ms. Berens said the hybrid approach was discussed at the staff level, especially with regard to nonconforming properties.

Michael Paine, Environmental Issues Planning Manager, said all studies show that the percent of useful riparian function decreases with distance from the stream or resource. It would be scientifically challenging to make up for the significant decrease in function by focusing elsewhere on the site should development be allowed to encroach on the buffer; it is not something that could be done easily at the staff level. Even if that approach were to be taken, it would take a much larger area of land to compensate for the lost buffer function.

Commissioner Mathews voiced support for the notion of enlarging the Protection Zone to 100 feet and focusing on increasing pervious surfaces and vegetation throughout the city.

Commissioner Maggi said she favors the concept of watershed planning and giving a value to the critical area and formulating an appropriate protection based on that value.

Mr. Paine commented that a large buffer coupled with uncontrolled hydrology, or urban runoff in a watershed is very likely to totally overwhelm the buffer effect. In that instance, the width of the buffer may on its face seem functional but in fact because too much runoff is reaching the stream fish habitat and food sources are lost, effects that cannot be replenished solely by a good buffer. Anything that can be done to ameliorate those conditions would improve the overall watershed. The fact is, however, that because the city is largely developed the impervious surfaces are already in place and not likely to be removed. Regulations focused on reducing the amount of impervious surface for new development and redevelopment will have little overall

effect as a result. However, small steps in the right direction are better than no steps at all, especially given that the process of salmon recovery looks out 50 years or more.

Answering a question asked by Commissioner Bonincontri, Ms. Berens said no development or disturbance would be permitted to occur within the Protection Zone on undeveloped properties. The only allowed activity would be enhancements through the planting of native vegetation. Properties with existing development located within the Protection Zone will be subject to certain rules when it comes to expanding uses; the recommendation of the CAC was to allow for expansion only after conducting a feasibility analysis and focusing expansion away from the protected area. Commissioner Bonincontri suggested that by expanding the buffer to 100 feet a number of properties would fall within the Protection Zone. She said she likes the concept but would not want to create a situation in which lots become largely unbuildable without getting into complicated and expensive studies. Many homes have roof drains tied to the stormwater system; it would be better if they drained onto their lawns instead. It would also be better to have streets with open drainage on the sides.

Commissioner Lynde suggested that going to the two-zone approach and bringing more properties into being regulated would more quickly bring about incremental improvements over time. Ms. Berens agreed and pointed out that in many instances property owners in a Conservation Zone area could find themselves having to mitigate for a stream even though there is a road and another house between them and the stream, something that might be very difficult to argue.

Mr. Paine allowed that the benefits that might result from having a Conservation Zone could be achieved by having an improved vegetation and impervious surface standard across the watershed. The burden would then be shared equitably by all in Bellevue, not just by those in close proximity to a resource.

Answering a question asked by Commissioner Bach about the Portland-based two-zone approach, Associate Planner Heidi Bedwell said recent efforts to update the regulations and increase some buffers were met with opposition. Several very organized neighborhood groups fought against the proposed increases.

Commissioner Mathews reiterated his desire to see a broader approach taken. As the remaining vacant properties are developed, and as properties are redeveloped, the accumulated incremental improvements will very positively affect the overall ecology. Ms. Berens said increasing the buffer size and applying some of the Conservation Zone concepts citywide will be far more acceptable.

Chair Schiring commented that under the current regulatory scheme, the runoff from driveways, which carries oil and other contaminants directly to the storm drains, is not regulated, whereas what comes off the roofs and flows into the yard and garden soil, is regulated. He suggested that the approach is somewhat backwards.

Commissioner Bonincontri offered her support for the one-zone approach as outlined by staff as the more equitable option.

There was agreement to move forward with the one-zone concept, but only if paired with stricter standards on impervious surfaces and retaining vegetation citywide.

Commissioner Bach said he would have to see what the citywide regulations will look like before making his final judgment.

Commissioner Maggi asked if there are any plans to assess the critical areas in the city and give each a value. Ms. Berens said there is not currently a budget for conducting a proactive inventory of resources. Under the current approach property owners must provide the necessary information when application for development is made.

Referring to Policy EN-27, Commissioner Lynde suggested rewording it to read “Preserve and enhance native vegetation throughout the city and integrate suitable native plants in urban landscape development.” Ms. Berens said the proposed policy language reflects an attempt to move away from using the term “riparian habitats” which is a term that encompasses more than just the buffer area. She agreed that the policy could be written to encourage the preservation and enhancement of vegetation citywide, and have a separate policy focused more on the retention of vegetation within the actual Protection Zone. There was agreement to take that approach.

Ms. Berens distributed a memo to the Commissioners that outlined an inconsistency between the Environmental Element and the Utilities Element. She explained that the update to the Utilities Element included removal of the language relative to removing underground storage tanks; the same language was found to appear in the Environmental Element. The proposal of staff to eliminate the language from the Environmental Element was agreed to by the Commission.

8. OLD BUSINESS – None

9. NEW BUSINESS

Ms. Burgess handed out a list outlining the accomplishments of the Planning Commission over the last eight years while Chair Schiring served as a member. In acknowledgment of his service, she presented him with a gift.

Commissioner Lynde allowed that the contributions of Chair Schiring and the valuable history he brought to the table will truly be missed.

10. PUBLIC COMMENT

Councilmember Degginger offered his appreciation for the volunteer service of Chair Schiring as a member of the Planning Commission. He said the involvement of Chair Schiring has been above and beyond in many respects and has been very much appreciated by the City Council.

Former Commissioner Bob Steed said it had been his pleasure to serve with Chair Schiring and allowed that the city has been enriched because of his involvement. He said Chair Schiring unswervingly took the broader view in coming to conclusions and making recommendations.

Chair Schiring said serving on the Planning Commission has been a wonderful experience. He praised staff for their untiring commitment to bringing solid information to the Commission and being willing to respond cheerfully to every request.

11. ADJOURNMENT

Chair Schiring adjourned the meeting at 8:42 p.m.